IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

MFA.No. 87 of 2007()

AGAINST THE ORDER DATED 20/03/2007 IN RP 1/2007 IN OA.35/2003 of RAILWAY CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANT: (RESPONDENT IN OA/APPLICANT IN RP):

UNION OF INDIA,
REP. BY THE GENERAL MANAGER, EAST-COAST RAILWAY,
BHUBANESWAR, ORISSA.

BY ADV. SRI.M.C.CHERIAN,SR.SC.,RAILWAYS

RESPONDENTS: (APPLICANTS IN OA/RESPONDENTS IN RP):
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1. SMT. BRIGEET CHACKO, W/O.LATE T.J.CHACKO
RESIDING AT MARATTUKALAM HOUSE, THRICKODITHANAM PO
KADAMACHIRA, CHANGANACHERRY, KOTTAYAM DISTRICT,
KERALA.

2. THERESA CHACKO (D/O.LATE T.L.CHACKO),
(MINOR REP. BY 1ST RESPONDENT MOTHER & GUARDIAN),
RESIDING AT MARATTUKALAM HOUSE,THRICKODITHANAM P.O
KADAMACHIRA, CHANGANACHERRY, KOTTAYAM DISTRICT,
KERALA.

BY CAVEATOR ADV.SMT.LEELAMMA N.T.

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.87 OF 2007 ()

Dated this the 19th day of June, 2007

J U D G M E N T

KOSHY,J.

An Army personnel died in an accident while he was travelling in train from Howrah to Chennai. His legal representatives applied for compensation. He was employed in the Army and posted at Arunachal Pradesh. He was on his journey to house and he was a bona fide passenger. The Railway Tribunal awarded Rs.4,00,000/- as compensation strictly in accordance with Part-I of Schedule to Railways Accidents and Untoward Incidents Compensation (Amendment) Rules, 1997. Tribunal held as follows:

> "A reading of the oral testimony of the 1st applicant and the documents filed by her, viz; Ext.A7 train journey ticket, Ext.A8 FIR, prepared by the Officer-in-charge, GRP Berahmpur Ps, would clearly go to prove that the deceased TJ Chacko, had boarded the Train No.2841 Coromondal Express at Howrah and proceeded towards Chennai on 20.11.2002 and that he was a bona fide passenger.

> Accordingly, this issue is answered in favour of the applicants by holding that T.K.Chacko the deceased was a bona fide passenger."

2. Question of law raised in this appeal is whether Tribunal was right in awarding 6% interest on the award amount from the date of registration of the case. It is submitted that the Bombay High Court in ***Sanjay Sampatrao Galkwad v. Union of India (A.I.R. 2005 Bombay 409)*** held that interest is payable only from the date of award. Compensation is payable for the injuries suffered in an accident. Hence payment of compensation relates to the date of accident. There is no dispute regarding the amount to be computed in railway accident claims as amount of compensation for death and other injuries is prescribed by the Schedule. Whatever be the income, age etc., the same amount is payable if a person is of injured in an untoward accident while travelling in train with ticket. So it cannot be stated that amount is determined only at the time of final adjudication of the award and interest can be directed to be paid only from the date of award and we are unable to accept

the ratio of the decision of the Bombay High Court (supra).

3. There is no provision under the Railways Act or Rules regarding payment of interest. Under Section 4A of the Workmen's compensation Act, interest is payable from the date of accident as that is the date when the compensation becomes due as held in ***Pratap Narain Singh Dev v. Sreenivas Salathra (1976 (1) S.C.C. 289) and Oriental Insurance company v. Khajuni Devi and others ((2002) 10 S.C.C. 567)***. In the Motor Vehicles Act also there is no specific provision regarding payment of interest on the compensation awarded. But in view of the various Apex Court decisions, it is now settled that interest is payable from the date of application at such rate at the discretion of the Tribunals. While awarding interest, tribunal can consider the bank rate also. Here the interest was ordered only from the registration of the case that too only at the rate of 6% per annum. We are of the opinion that the Railway Tribunal used the discretion correctly. In any event, we are of the opinion that the above direction need not be interfered in an appeal

and no substantial injustice is caused as interest is payable for the delay in payment of compensation. Considering the increase in money value and facts and circumstances of the case, we see no ground to interfere in the order to pay interest on the amount of compensation at 6% per annum from the date of registration of the case. Hence appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

8th June, 2007